

PUBLIC

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Fear for safety/"Disappearance"/ Fear of torture or ill-treatment

21 May 2004

PAKISTAN

**Sami Yousufzai (m), journalist  
Mohammad Salim (m), taxi driver**

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Amnesty International is concerned for the safety of Afghan journalist Sami Yousufzai and his Pakistani driver, Mohammad Salim who "disappeared" on 21 April. Their families have been unable to establish their whereabouts and fear they may be at risk of torture or ill-treatment.

Sami Yousufzai, a regular contributor to the US magazine *Newsweek*, and his driver Mohammad Salim were arrested near the town of Bannu, along with American journalist Eliza Griswold. As foreign journalists they were barred from entering tribal areas without specific permission. Eliza Griswold, who works for the *New Yorker* magazine, had apparently disguised herself as an Afghan woman wearing the traditional *burqa*. They were arrested at a checkpoint, when Eliza Griswold was unable to answer a question in the local language, *Pashu* by what Pakistani media describe as "personnel of secret agencies". These were probably members of the Federal Investigation Unit (FIU) which is under military command.

Eliza Griswold was reportedly sent to the capital Islamabad and later left the country. It is not known in whose custody Sami Yousufzai and Mohammad Salim are currently being held as the authorities have denied holding them. They have not been brought before a court as is required by law, and may be held in military custody. Media reports speculate that the two men may initially have been taken to the town of Kohat, before being taken into military custody in the city of Peshawar.

Unnamed government officials have been quoted in the Pakistani media as saying that the two men were transferred about a week ago to a detention centre in the town of Miran Shah, North Waziristan, which is a Federally Administered Tribal Area. Detainees in the tribal areas can be tried under the Frontier Crimes Regulation of 1901 which falls considerably short of international standards for fair trial. Local observers have expressed their concern about the legality of such transfers. They have also expressed their more general apprehension that following Pakistan's decision to support the United States of America in the 'war on terror', Pakistani legal safeguards are widely ignored when there are security concerns.

A lawyer in Peshawar filed a *habeas corpus* petition on 13 May in the Peshawar High Court on behalf of Sami Yousufzai's mother, naming the central government, the North West Frontier Province (NWFP) government and the Corps Commander as respondents. The High Court has issued notice to all respondents and it is expected that upon receiving a reply, the High Court will decide next week whether to admit the petition and proceed with it. Local observers have told Amnesty International that they fear that it will be very difficult to find out where the two men are being held if they have been transferred to the tribal areas. This is because they will be outside the jurisdiction of the Peshawar High Court and *habeas corpus* does not apply in tribal areas.

#### **BACKGROUND INFORMATION**

Military and paramilitary forces searching for those associated with al-Qa'ida and the Taliban in tribal areas have recently threatened and harassed journalists as well as taken away or destroyed their equipment. The journalists were intimidated as they attempted to cover the security operation in the areas.

In a similar case to that of Sami Yousufzai and Mohammad Salim, journalist Khawar Medhi Rizvi, "disappeared" after being arrested on 16 December 2003 in Karachi after working with two French journalists near the Afghan border. The French journalists were subsequently charged under the Foreigners Act with violating visa regulations as they had not obtained clearance to visit Balochistan province. They were released on bail on 24 December 2003 and received a suspended sentence of six months' imprisonment and a fine on 10 January 2004. Two days later at their appeal hearing, the Sindh High Court upheld the sentence

but remitted their jail term to the time already served, whilst doubling their fine. They were released and left the country forthwith. After the authorities had consistently denied holding Khawar Medhi Rizvi, he was brought before a court in the city of Quetta on 26 January 2004. He had spent 35 days in incommunicado detention, and was charged with sedition and criminal conspiracy. On 29 March, Khawar Medhi Rizvi was released on bail and his case is due to be heard again shortly (See UA 13/04, ASA 33/001/2004, 13 January 2004).

Amnesty International believes that the "disappearance" of Sami Yousufzai and Mohammad Salim violates a number of human rights guaranteed in the Constitution of Pakistan and international human rights standards. The Constitution of Pakistan states in Article 9: 'No person shall be deprived of life and liberty, save in accordance with law.' It lays down in Article 10 that every detainee has the right to be informed of the charges against them, to consult and be defended by a lawyer of his choice and be brought before a magistrate within 24 hours of arrest. None of these requirements have been fulfilled in the case of Sami Yousufzai and Mohammad Salim. By possibly transferring the two detainees to areas outside the jurisdiction of the provincial high courts, the authorities have also denied them the right to have the lawfulness of their detention examined by a high court. Under Article 199 of the Constitution of Pakistan, provincial high courts have the power to direct "that a person in custody within the territorial jurisdiction of the Court be brought before it so that the Court may satisfy itself that he is not being held in custody without lawful authority or in an unlawful manner". The tribal areas are outside the jurisdiction of any of the country's high courts. There are also concerns for their safety given the widespread use of torture and cruel, inhuman and degrading treatment in detention in Pakistan.

**RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:**

- expressing concern at the "disappearance" of Sami Yousufzai and Mohammad Salim on 21 April 2004 which contravenes human rights guarantees in the Constitution of Pakistan;
- calling for the authorities to reveal immediately where and in whose custody the two men are being held;
- expressing fear for their safety and asking authorities to ensure that Sami Yousufzai and Mohammad Salim will not be subjected to torture or to other forms of cruel, inhuman or degrading treatment if they are in custody;
- urging that Sami Yousufzai and Mohammad Salim be immediately and unconditionally released if there are no criminal charges against them;
- urging authorities to ensure, that if there are criminal charges against Sami Yousufzai or Mohammad Salim, they are treated strictly in accordance with the law and are given immediate and regular access to a lawyer of their choice, regular contact with their families and that they be tried in accordance with internationally recognized standards for fair trial.

**APPEALS TO:**

President Pervez Musharraf  
Office of the President  
Islamabad, Pakistan

**Telegram: President Pervez Musharraf, Islamabad, Pakistan**  
**Fax: + 92 51 922 4768 (there may be a delay before the fax tone engages)**  
**Salutation: Dear President Pervez Musharraf**

**COPIES TO:** Diplomatic representatives of Pakistan accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 2 July 2004.